

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

UMG RECORDINGS, INC., *et al.*,

*Plaintiffs,*

v.

KURBANOV, *et al.*,

*Defendants.*

Case No. 1:18-cv-00957-CMH-TCB

**DECLARATION OF KELLYN M. GOLER**

I, Kellyn M. Goler, hereby declare:

1. I am an Associate at Oppenheim + Zembrak, LLP, and I am admitted to practice law in the District of Columbia and the State of Maryland. I am counsel for Plaintiffs in the above-captioned case. I have personal knowledge of all facts stated in this declaration, and if called upon as a witness, I could and would competently testify thereto.

2. I submit this declaration in support of Plaintiffs' Memorandum in Support of Their Request for Damages, a Permanent Injunction, and Attorneys' Fees and Costs, filed contemporaneously herewith.

3. Attached hereto are true and correct copies of the following exhibits:

Exhibit	Description
1	Excerpt of Defendant's Responses to Plaintiffs' First Set of Requests for Admission.
2	YouTube.com, "Terms of Service," effective as of March 17, 2021, <i>available at</i> <a href="https://web.archive.org/web/20210614222411/https://www.youtube.com/static?template=term">https://web.archive.org/web/20210614222411/https://www.youtube.com/static?template=term</a> (dated June 14, 2021).

3	Young Turks Recordings Ltd. v. British Telecomms. PLC, [2021] EWHC 410 (Ch) (Eng.).
4	FLVTO.biz, “How to Download Music from YouTube,” <a href="https://www.flvto.biz/how-to/how-to-download-music-from-youtube/">https://www.flvto.biz/how-to/how-to-download-music-from-youtube/</a> (screenshot captured March 16, 2018), produced in discovery by Plaintiffs as PLS-KURB_00087357.
5	2conv.com, “Convert Videos from YouTube in 1 click!,” <a href="https://www.2conv.com">https://www.2conv.com</a> (screenshot captured March 16, 2018), produced in discovery by Plaintiffs as PLS-KURB_00087164.
6	FLVTO.biz, “How to Rip Music from YouTube to iTunes,” <a href="https://www.flvto.biz/how-to/how-to-rip-music-from-youtube-to-itunes/">https://www.flvto.biz/how-to/how-to-rip-music-from-youtube-to-itunes/</a> (screenshot captured March 16, 2018), produced in discovery by Plaintiffs as PLS-KURB_00087405.
7	Insertion Orders produced by Defendant as KURB 00034–00035, KURB 00070–00071, and KURB 00098–00099, along with unredacted versions of certain pages.
8	Excerpt of Defendant’s Answers to Plaintiffs’ First Set of Interrogatories (dated May 7, 2021).
9	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20171215045600/www.flvto.biz/top100">https://web.archive.org/web/20171215045600/www.flvto.biz/top100</a> (dated Dec. 15, 2017).
10	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20170830210848/http://www.flvto.biz/top100/">https://web.archive.org/web/20170830210848/http://www.flvto.biz/top100/</a> (dated Aug. 30, 2017).
11	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20170119082522/http://www.flvto.biz/top100/">https://web.archive.org/web/20170119082522/http://www.flvto.biz/top100/</a> (dated Jan. 19, 2017).
12	2conv.com, “Most Watched Today,” <i>available at</i> <a href="https://web.archive.org/web/20170822125223/http://2conv.com/">https://web.archive.org/web/20170822125223/http://2conv.com/</a> (dated Aug. 22, 2017).
13	FLVTO.biz, “How to Download Music from YouTube,” <i>available at</i> <a href="https://web.archive.org/web/20180108074253/http://www.flvto.biz/how-to/how-to-download-music-from-youtube/">https://web.archive.org/web/20180108074253/http://www.flvto.biz/how-to/how-to-download-music-from-youtube/</a> (dated Jan. 8, 2018).
14	FLVTO.biz, “How to Add an Entire YouTube Playlist to iTunes” (screenshot captured Mar. 16, 2018), produced in discovery by Plaintiffs as PLS-KURB_00087204.

15	FLVTO.biz, “How to Download Music for Free on Your Computer,” <i>available at</i> <a href="https://web.archive.org/web/20210116215050/https://www.flvto.biz/en83/how-to/how-to-download-songs-from-youtube-to-your-computer/">https://web.archive.org/web/20210116215050/https://www.flvto.biz/en83/how-to/how-to-download-songs-from-youtube-to-your-computer/</a> (dated Jan. 16, 2021).
16	2conv.com, “2CONV YouTube to Mp3,” <i>available at</i> <a href="https://web.archive.org/web/20210301070359/https://2conv.com/en68/youtube-mp3/">https://web.archive.org/web/20210301070359/https://2conv.com/en68/youtube-mp3/</a> (dated Mar. 1, 2021).
17	FLVTO.biz, “How to Rip Music from YouTube to iTunes” (screenshot captured Mar. 16, 2018), produced in discovery by Plaintiffs as PLS-KURB_00087235.
18	Compilation of FLVTO and 2conv posts on <a href="http://www.twitter.com">www.twitter.com</a> (“Twitter”) dated between July 9, 2014 and June 5, 2015.
19	Declaration of Tofig Kurbanov in Support of Motion to Dismiss (dated Oct. 1, 2018), ECF No. 25-1.
20	SimilarWeb, “Website Analysis flvto.biz” (June 2021), produced in discovery by Plaintiffs as PLS-KURB_00092770.
21	SimilarWeb, “Website Analysis 2conv.com” (June 2021), produced in discovery by Plaintiffs as PLS-KURB_00092766.
22	August 15, 2019 email chain between Pavel Vasin on behalf of FLVTO and Dariya Silko (Taboola Publisher Account Manager), produced in discovery by third-party Taboola, Inc. as TABOOLA 000006.
23	August 7, 2019 email from Pavel Vasin to Taboola, produced in discovery by third-party Taboola, Inc. as TABOOLA 00008.
24	October 26, 2018 email chain between Daria Jones and Lilit Mesyan (Taboola), produced in discovery by third-party Taboola, Inc. as TABOOLA 00017.
25	January 19, 2015 Twitter post by 2conv, produced in discovery by Plaintiffs as PLS-KURB_00088084.
26	July 16, 2014 Twitter post by FLVTO, produced in discovery by Plaintiffs as PLS-KURB_00088392.
27	DOCUMENT LEFT INTENTIONALLY BLANK
28	Australasian Performing Right Ass’n v Telstra Corp. Ltd. [2019] FCA 751 (Austl.)

29	Excerpts of August 2017 notices of infringement sent by the Recording Industry Association of America (“RIAA”) to FLVTO and 2conv, produced in discovery by Plaintiffs as PLS-KURB_00090003.
30	May 17, 2018 letter from Jared Freedman (RIAA) to Artem Otstavnov produced in discovery by Plaintiffs as PLS-KURB_00089994.
31	May 23, 2018 email from Artem Otstavnov to Jared Freedman (RIAA), attaching letter from Tofig Kurbanov responding to Mr. Freedman’s May 17, 2018 letter.
32	Lumen, “DMCA (Copyright) Complaint to Google,” <i>available at</i> <a href="https://web.archive.org/web/20201104012836/https://lumendatabase.org/notices/19448855?access_token=ArQVjVl6doOqOf76Oburfw#">https://web.archive.org/web/20201104012836/https://lumendatabase.org/notices/19448855?access_token=ArQVjVl6doOqOf76Oburfw#</a> (dated Nov. 4, 2020).
33	Declaration of Robert W. Schumann (June 16, 2021), ECF No. 99-6.
34	Excerpt of Office of the United States Trade Representative, “2019 Review of Notorious Markets for Counterfeiting and Piracy.”
35	Excerpt of Office of the United States Trade Representative, “2020 Review of Notorious Markets for Counterfeiting and Piracy.”
36	YouTube, “YouTube Premium,” <a href="https://www.youtube.com/premium">https://www.youtube.com/premium</a> , <i>available at</i> <a href="https://web.archive.org/web/20210617024413/youtube.com/premium">https://web.archive.org/web/20210617024413/youtube.com/premium</a> (dated June 17, 2021).
37	FLVTO.biz, <a href="https://flvto.biz">https://flvto.biz</a> (dated Oct. 5, 2021).
38	2conv.com, <a href="https://2conv.com">https://2conv.com</a> (dated Oct. 5, 2021).
39	Whois Record for 2conv.com (dated Oct. 1, 2021).
40	Whois Record for flvto.biz (dated Oct. 1, 2021).

4. Attached hereto are true and correct copies of the following exhibits referenced in the Declaration of Robert W. Schumann, filed contemporaneously herewith (the “Schumann Declaration”). A number of these documents are also included above and are listed again here for convenience in reviewing materials referenced in the Schumann Declaration:

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2	YouTube.com, “Terms of Service,” effective as of March 17, 2021, <i>available at</i> <a href="https://web.archive.org/web/20210614222411/https://www.youtube.com/static?template=term">https://web.archive.org/web/20210614222411/https://www.youtube.com/static?template=term</a> .
8	Excerpt of Defendant’s Answers to Plaintiffs’ First Set of Interrogatories (dated May 7, 2021).
9	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20171215045600/www.flvto.biz/top100">https://web.archive.org/web/20171215045600/www.flvto.biz/top100</a> (dated Dec. 15, 2017).
10	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20170830210848/http://www.flvto.biz/top100/">https://web.archive.org/web/20170830210848/http://www.flvto.biz/top100/</a> (dated Aug. 30, 2017).
11	FLVTO.biz, “Top 100 most converted and downloaded MP3s,” <i>available at</i> <a href="https://web.archive.org/web/20170119082522/http://www.flvto.biz/top100/">https://web.archive.org/web/20170119082522/http://www.flvto.biz/top100/</a> (dated Jan. 19, 2017).
12	2conv.com, “Most Watched Today,” <i>available at</i> <a href="https://web.archive.org/web/20170822125223/http://2conv.com/">https://web.archive.org/web/20170822125223/http://2conv.com/</a> (dated Aug. 22, 2017).
13	FLVTO.biz, “How to Download Music from YouTube,” <i>available at</i> <a href="https://web.archive.org/web/20180108074253/http://www.flvto.biz/how-to/how-to-download-music-from-youtube/">https://web.archive.org/web/20180108074253/http://www.flvto.biz/how-to/how-to-download-music-from-youtube/</a> (dated Jan. 8, 2018).
15	FLVTO.biz, “How to Download Music for Free on Your Computer,” <i>available at</i> <a href="https://web.archive.org/web/20210116215050/https://www.flvto.biz/en83/how-to/how-to-download-songs-from-youtube-to-your-computer/">https://web.archive.org/web/20210116215050/https://www.flvto.biz/en83/how-to/how-to-download-songs-from-youtube-to-your-computer/</a> (dated Jan. 16, 2021)
16	2conv.com, “2CONV YouTube to Mp3,” <i>available at</i> <a href="https://web.archive.org/web/20210301070359/https://2conv.com/en68/youtube-mp3/">https://web.archive.org/web/20210301070359/https://2conv.com/en68/youtube-mp3/</a> (dated Mar. 1, 2021).
19	Declaration of Tofig Kurbanov in Support of Motion to Dismiss (dated Oct. 1, 2018), ECF No. 25-1.
20	SimilarWeb, “Website Analysis flvto.biz” (June 2021), produced in discovery by Plaintiffs as PLS-KURB_00092770.
21	SimilarWeb, “Website Analysis 2conv.com” (June 2021), produced in discovery by Plaintiffs as PLS-KURB_00092766.
33	Declaration of Robert W. Schumann (June 16, 2021), ECF No. 99-6.

36	YouTube, “YouTube Premium,” <a href="https://www.youtube.com/premium">https://www.youtube.com/premium</a> , available at <a href="https://web.archive.org/web/20210617024413/youtube.com/premium">https://web.archive.org/web/20210617024413/youtube.com/premium</a> (dated June 17, 2021).
39	Whois Record for 2conv.com (dated Oct. 1, 2021).
40	Whois Record for flvto.biz (dated Oct. 1, 2021).

5. The Insertion Orders listed above and attached hereto as Exhibit 7 were produced by Defendant with certain information redacted. Although the Court ordered Defendant to produce these documents without redactions, he never did so. On June 25, 2021, the Court confirmed that Plaintiffs could attempt to un-redact the information redacted in Defendant’s production. *See* ECF No. 106 at 31:3–25. The documents attached hereto as Exhibit 7 contain both the redacted pages produced by Defendant and also certain pages that have been un-redacted by Plaintiffs’ counsel. Exhibit 7 contains three insertion orders that are a sample of the insertion orders produced by Defendant that Plaintiffs’ counsel were able to un-redact and that revealed Able Sun Holdings Ltd. as the publisher for Defendant’s Websites and Able Sun’s General Director, Natalia Kyriakidou, as the signatory. If it would be helpful to the Court, additional insertion orders can be provided.

6. Plaintiffs have asserted as works in this litigation the sound recordings referenced in the Twitter posts attached hereto as Exhibit 18. *See* ECF No. 79-1.

7. In connection with the parties’ briefing on Plaintiffs’ Motion to Compel Production of Documents, ECF No. 91, Defendant represented to the Court that he produced certain “articles” in prior filings but had no additional documents in his possession, custody, or control substantiating his allegations that his Websites are capable of, or are actually used for, significant or substantial non-infringing uses. *See* ECF No. 94 at 4.

8. Beginning sometime around July 2021, Defendant appears to have applied some sort of “geo-blocker” that is aimed at preventing access to the Websites from users located in the United States. As of the date of this declaration, users who attempt to access Defendant’s Websites from the United States are shown a blank page with text stating: “This service is permanently unavailable in United States.” *See* Ex. 37; Ex. 38.

Dated October 5, 2021

/s/ Kellyn M. Goler  
Kellyn M. Goler